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TAGS: [ECON](#) [PGOV](#) [PREL](#) [BL](#)
SUBJECT: TOBIAS MEETING WITH JUSTICE SECTOR

Classified By: Ambassador Philip S. Goldberg for reasons 1.4 (b) and (d).

SUMMARY

11. (C) Visiting Director of Foreign Assistance and USAID Administrator Randall Tobias and visiting WHA PDAS Charles Shapiro met March 2 with senior judicial officials who expressed concerns about GOB threats to the courts' independence. The judges argued that the Morales administration would use the Constituent Assembly (CA) to consolidate power and undermine the judiciary. One panelist said the Constitutional Tribunal is the "most fragile" judicial institution because it serves as "the brake on excessive power." In response to Tobias' inquiry about the courts' allies, the judges cited the Bolivian senate and legal community, as well as U.S., German, and Spanish assistance agencies. They also noted their difficulties in working with justice and finance ministry officials. The judges underscored several areas in which continued USAID assistance is of critical importance, including strengthening the courts and other democratic institutions, educating Bolivians about the courts' role in society, improving access to justice via continued support of integrated justice centers, implementing the criminal procedures code, and modifying the civil justice system to ensure respect for the rule of law. The GOB's March 2 comments about closing the Constitutional Tribunal seem to represent yet another "trial balloon" shot down by an overwhelming negative response. We will look for ways to continue to support Bolivia's courts. End summary.

THREATS TO JUDICIARY IN GENERAL

12. (C) Two Supreme Court justices, a Constitutional Tribunal magistrate, the head of the judicial council, and a former vice minister of justice met with Director of Foreign Assistance and USAID Administrator Randall Tobias March 2 to express continued concern about GOB threats to judicial independence. Visiting PDAS Charles Shapiro, the Ambassador,

and USAID director also attended. Supreme Court President Hector Sandoval reported executive branch interference in the exercise of justice, including the pending criminal cases against several ex-presidents. He complained about Morales' reduction of judicial salaries and the executive branch's failure to distribute the courts' budget. Sandoval argued the executive branch is squeezing the judiciary to weaken it.

Another judge lamented recent social pressure on the courts, as well as pressure from within the judicial branch. Yet another argued that the executive branch only recognizes other democratic institutions when it serves its ends. The judges said they are largely united and are prepared to "fight" to preserve the courts' institutional autonomy.

13. (C) The judges contended that the Morales administration would use the Constituent Assembly (CA) as a means to consolidate power and undermine the judiciary. While the justices said they have scheduled an audience with the Assembly to share their proposals for judicial reform, they had low expectations that the CA would accept their suggestions, instead believing the GOB will advocate a new model that "excludes the judiciary." One judge recognized that the indigenous system of community justice will be part of judicial reform, but maintained that it should complement the formal judicial system. Another believed that via the CA, the MAS will attempt to gain the indefinite re-election of Morales and will try to make the courts dependent on the executive and legislative branches. Those worries aside, the judges were also concerned about the possible popular election of judges to Bolivia's highest courts.

14. (C) The Constitutional Tribunal magistrate said that compared to the other judicial institutions, the Tribunal is the "most fragile" because it serves as "the brake on excessive power." Magistrate Silvia Salame cited a March 2 press report on a GOB proposal to eliminate the Constitutional Tribunal on the grounds that the new constitution "won't need interpretation." Instead, the proposal included regional constitutional controls which give MAS-dominated social sectors control over the constitution, with all changes or additions to be approved via referendum. (Note: Strong negative reaction to this GOB proposal led the justice ministry to say late March 2 that it did not intend to eliminate the Tribunal and that press reports claiming otherwise were false). Salame also complained that the Tribunal continues to be understaffed, working with five of ten magistrates until the senate fills the vacancies.

THOSE WITH US AND AGAINST US

15. (C) In response to Tobias' inquiry about the judicial sector's allies, the judges cited the Bolivian senate (particularly with an opposition senator as president) and legal community, as well as U.S., German, and Spanish assistance agencies. Aside from those groups, one judge described the judicial branch as "alone." They claimed that most human rights organizations (many of which are supported by the Europeans) are now associated with the GOB, leaving little civil society counterweight to the Morales administration. They lamented that the justice and finance ministries work against them-- the former because high-level officials lack legal backgrounds and the latter because of a lack of coordination on budgetary matters. The judges thanked Tobias for past USAID cooperation and said future assistance would be their key to survival. They urged continued U.S. assistance, saying that after July 2, when the CA completes its work, "the struggle will be in the streets."

HOW USAID COULD HELP

16. (C) The panelists cited several areas in which continued USAID assistance is of critical importance, including

strengthening the courts and other democratic institutions, educating Bolivians about the courts' role in society and other democratic values, improving access to justice via continued support of integrated justice centers, updating the criminal code, and modifying the civil justice system to ensure respect for the rule of law.

COMMENT

17. (C) The GOB's stated intent to close the Constitutional Tribunal seems to represent yet another "trial balloon" shot down by an overwhelming negative response. Late March 2, the Morales administration distanced itself from these proposals to eliminate the Constitutional Tribunal. Nonetheless, the Bolivia executive continues to pressure the judiciary. End comment.

Ambassadors Tobias and Shapiro have cleared this message.
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